

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date

Case No. 359

Hearing Dt. 15/01/2011

In the matter of Bill dispute

Shri Shantaram H. Mistry - Appellant

V/s.

MSEDCL, TPL Bhiwandi - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri Sajid Ansari -Consumer representative
- 2) Shri Shantaram H. Mistry - Consumer

C - On behalf of Respondent

- 1) Shri Jeevan Clerk, Dy. Manager, TPL.
- 2) Mrs. Savita Bhatia – Astd. Manager TPL.

Preamble: -

Shri Shantaram H. Mistry is a three phase power loom consumer under service no. 13012552658 at house no. 1517, Panna Compound, New Kaneri, Near Shivaji Mandir, Bhiwandi. The Bhiwandi area is handed over by MSEDCL under franchisee scheme to M/s. Torrent Power Ltd. from 26/01/2007. M/s. TPL billed this consumer with the same reading on assessed basis from March 2007 to Dec-2007. For this correction of average billing consumer approached to IGRC (TPL) on 08/11/2010. Accordingly the matter was heard and decision was given on 24/12/2010 stating that the case is time barred as per Regulation 6.6 of MERC (CGRF & E.O.) Regulations 2006. Aggrieved of this, the consumer through his representative approached to this Forum and grievance was registered vide case no. 359 and hearing was fixed on 15/01/2011.

Consumer Say: -

On behalf of Shri Shantaram H. Mistry, Shri Sajid Ansari was present to represent the case (herein after referred as to the Appellant).

As argued by him, M/s. TPL has charged the consumer on average basis for period of March 2007 to December 2007. The Appellant referred the Hon'ble Supreme Court order dtd. 14/08/2007 which states as :

1) The Licensee should issue General Public Notice for redressal of grievance of all the consumers who feel aggrieved by the supplementary/amendment/average bill issued by the respective Distribution Companies. The said grievance is to be registered/lodged by the aggrieved

consumer within a period of three months from the date of publication of such Public Notice.

2) M/s. TPL has not maintained the record in the format as suggested by the Hon'ble Court vide above order.

3) M/s. TPL had not complied the Hon'ble Supreme Court order as elaborated in 1 & 2.

The Appellant further added that TPL has not issued general public notice as directed by Hon'ble Supreme Court. In such cases, the time limit should not be observed for redressal of grievance.

He further reiterated that TPL is not following the Hon'ble Supreme Court order and taking the shelter of provisions of Commission's Regulation 6.6 and prevailing the consumer from justice.

Prayer of the consumer:-

1) The excess bill recovered on average basis should be refunded and only three months average billing should be allowed prior to the replacement of meter.

2) M/s. TPL should be warned and restrained from such repetitions, thereby harassing the consumer.

Utility Say :-

Shri Jeevan Clerk, Dy. Manager & Mrs. Savita Bhatia – Astd. Manager, were present to represent the case (hereinafter will referred as to the Respondent) They stated as follows :-

The complainant has prayed for withdrawal of average bill from March -07 to December-07. On perusing the same, it is observed that the meter was found inaccessible during the said period and hence assessed bills were issued. In this reference we draw the attention of Hon'ble CGRF to clause no, 45 (a) of Hon'ble MERC order in case no. 2 of 2003 dated 22nd August 2005.

Following is the relevant extract of the above clause:

“The same principle will apply to all other situation in which such ‘average’ billing has been resorted to, except in cases where the meter is not accessible...”

Further on going through the complaint it was observed that consumer in his complaint has demanded for the reversal of assessed bills for period from March-07 to December 07 which was never disputed by him. He has also done several part payment to clear his dues.

The Respondent further added that it is worth to note that the cause of grievance is of the month of March 07 to December-07. But he has put up his grievance before IGRC Cell in the month of Nov-10. hence, as per clause no. 6.6 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006 which states that “ the Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen”, it is clearly evident that the period for which the reversal is being sought is beyond the stipulated time of two years and the case stands time barred and hence we request you to dispose off the case.

They further stated that the commercial Circular no. 65 dt. 20/10/2007 is not applicable in the present case.

With the above say, the Respondent refuted the demand of the Appellant and requested Forum to dismiss the case.

Observation :-

The matter was heard on 15/1/2011, both the parties were present. The documents on record and arguments of rival parties reveal that, the Internal Grievance Redressal Cell has refuted the request for reversal of bill charged for period from March 07 to December-07 under the reason that grievance is not filed within the prescribed time limit of 2 years from its arose as mentioned in the Regulation 6.6 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2006.

Forum observed that the said Regulation is applicable for the Forum and Electricity Ombudsman.

In the present case, the Appellant consumer emphasized on the Distribution Licensees's (i.e. MSEDCL) commercial Circular no. 65 dt. 20/10/2007 which is in respect of correction of bills issued on average basis and is the clarification of the Hon'ble Supreme Court order passed on dt. 14/08/2007. According to the submission of the Appellant consumer the Distribution Licensee should have issued the public notice in regards to the grievance of the consumer for average billing which Distribution Licensee failed to do. Moreover in case of faulty meter and average assessed billing it should be restricted for three months. But TPL has charged for a period of 8

months. The Appellant also cited and referred the Supreme Court's suit order no. 2846 of 2006. decided on 14/08/2007 and D. L's commercial circular no. 65 dt. 20/10/2007 in support to his submission.

Perusal of the said order and commercial circular reveal that the Honorable Supreme Court held that the Distribution companies have to issue General public notice for redressal of the grievance of the consumers who feel aggrieved by the supplementary / amendment and average bill issued by the distribution companies and said grievance should lodged by the consumer within 3 months period from such public notice.

Forum observed that such public noticed had been issued by Dist Licensee from their head office and is very clearly mentioned there itself in commercial circular no. 65.

It is observed by the Forum that consumer had never approached within given prescribed time of 3 months period to lodge the grievance to the utility. Forum also observed that as per commercial circular and Honble Supreme Court order there was opportunity and ample time with the consumer to approach to the Forum for redressal of his grievance but consumer did not.

Forum further observed that in the same commercial circular of D.L. it has been clear that the record of those consumers who have filed the grievance within the stipulated time (i.e. 1st June 2004 to 19 Jan 2005) has to be maintained by the utility. In this case there is nothing on record that this

consumer had filed his grievance to the utility during this period and hence claim of consumer has no meaning.

As per commission's directions in case of 2 of 2003 (page 2 Para 2) the Hon'ble Supreme Court had restricted the period for filling the grievance for supplementary bills issued on average or assessed billing up to the formation of conditions of supply which is approved by the Hon'ble commission and was brought in to force from 20th January 2005. The said grievance of the consumer is of March 2007 where the conditions of supply was already in existence. Forum also observed that as stated in commercial circular no 65, that aggrieved consumers should approach to the Forum for redressal. The working of Forums were in existence from the year 2004. In the present case the cause of action arose is in March 2007. It shows that consumer can approach to the Forum well within time. But it is observed that he approached to this Forum after lapse of almost 4 years. As per the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations 2006, therein Regulation 6.6 clearly stated that *The Forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.*

Considering above Forum is not permitted to admit the grievance of the consumer after the lapse of two years from the date of action arisen i.e. in this case it is March 2007.

During the hearing M/s. Torrent Power Ltd. attracted the attention of the Forum on varied signatures of the consumer when consumer applied for change of purpose from power loom to LTPG on 25/11/2008 and from LTPG to power loom on 26/03/2010; the signatures on both applications are differ.

On perusal of the submission in this regard, Forum observed that the signatures on all three documents are quiet differ from each other. This act of the consumer is frivolous.

Moreover Forum also observed that when M/s. Torrent Power Ltd. changed the meter of the consumer on 14/07/2007, the meter change slip indicates the purpose of the premises is for moti machine. Hence it could not deny that the consumer was availing the benefits of the power loom tariff for the industrial activity.

From the above, it reveals that Appellant consumer is not approached with the clean hands and considering the provision in MERC (CGRF &EO) Regulation 2006, therein Regulation 6.9 is applicable in such case which states as :

6.9 : The Forum may reject the Grievance at any stage if it appears to it that the Grievance is :-

a) frivolous, vexatious, malafide;

Considering the above Regulations, Forum constraint to reject the prayer of the consumer for reversal of average and assessed billing.

ORDER

1) The grievance of the consumer is filed after lapse of almost 4 years. As per MERC (CGRF & EO) Regulations 2006, therein 6.6 the case is time barred. Moreover considering the frivolous & malafide intension of consumer the prayer is rejected with the reason elaborated above.

No orders as to cost.

Both the parties should be informed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 10th February 2011.

Note :

1) In absence of Chairperson the order is issued by Member Secretary and Member of the Forum.

2) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

3) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

**MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP**

**R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP**